

Application No.: 10/763,484

Art Unit: 2109

Docket No.: MWS-107

REMARKS

In this Response, Applicants have amended claims 6, 7, 9, 10, 16, 17, 22 and 24. Claims 1-24 are pending, of which claims 1, 10, 18, 21, 22, 23 and 24 are independent. No new matter has been introduced.

I. Objections to the Specification

The specification is objected to because of informalities. The Examiner alleges that acronyms, e.g. CD-ROMS and ASPI, have been used throughout the specification without first including a description in plain text (Office Action, paragraph 2). Regarding the use of the acronym "CD-ROMS", Applicants have amended the specification at page 2, line 4 so that it reads "CD-ROMs." Applicants have also amended the specification at page 2, line 4 so that it describes "CD-ROM" as "CD-read-only memory." Regarding the use of the acronym "ASPI," Applicants have amended the specification at page 2, line 26 so that it describes "ASPI" as "Advanced SCSI (Small Computer Systems Interface) Programming Interface." No new matter has been added.

The Examiner also notes that the use of the trademarks CloneCD© and BlindWrite© should be capitalized wherever they appear and be accompanied by the generic terminology (Office Action, paragraph 3). Applicants have amended the specification so that the above trademarks are capitalized wherever they appear. No new matter has been added.

In light of the above amendments, Applicants respectfully request the Examiner to reconsider and to withdraw the objections to the specification.

II. Objections to the Claims

Claims 6, 10, 22 and 24 are objected to because the acronym "CD-R/W" has been used without first including a description in plain text (Office Action, paragraph 4). In the claim amendments, Applicants have amended claims 6, 10, 22 and 24 to include a description of the acronym "CD-R/W." No new matter has been added.

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Claims 7, 16 and 17 are objected to because the word "eraseable" is misspelled (Office Action, paragraph 5). In the claim amendments, Applicants have amended claims 7, 16 and 17 to correct the misspelling.

In light of the above amendments, Applicants respectfully request the Examiner to reconsider and to withdraw the objections to the claims.

III. Summary of Claim Rejections

Claims 9 and 11 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement.

Claim 9 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 1, 4, 5, 7-9, 18-21 and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent Number 5,896,454 to Cookson et al (hereafter "Cookson").

Claims 2, 3, 6, 10-17, 22 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cookson.

IV. Claim Rejections under 35 U.S.C. §112

Claims 9 and 11 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement (Office Action, paragraph 7). The Examiner alleges at paragraph 7 of the Office Action:

"The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The applicant claims performing the step of searching for a file on an optical medium before the type of medium being read by the optical drive is determined. The examiner will interpret this as searching for medium type code before determining the media type when considering the claims below."

Applicants respectfully disagree with the Examiner's allegation, because Applicants' specification states at page 8, lines 4-12, in connection with Figure 2:

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"In step 120, the copy protection program, which is also stored on the optical medium, checks a normal file that is expected to be on the optical medium, for example, a file containing the software program, to make sure that the desired optical medium is in the drive.... In step 130, the copy protection program identifies the media type of the optical medium"

In view of the above excerpt of the specification, Applicants respectfully submit that the specification provides sufficient enablement for the feature recited in claims 9 and 11.

Claim 9 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite (Office Action, paragraph 9). More particularly, the Examiner alleges at paragraph 9 of the Office Action that it is unclear why one would search for a file on an optical medium containing the software program, in order to ensure that the optical medium contains the software program, if it was already established that the optical medium contains the software program. In the claim amendments, Applicants amend claim 9 so that it recites "the step of searching for a file on the optical medium containing the software program prior to determining the media type."

In light of the above arguments and amendments, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112 rejections of claims 9 and 11.

V. Claim Rejections under 35 U.S.C. §102(b)

Claims 1, 4, 5, 7-9, 18-21 and 23 are rejected under 35 U.S.C. §102(b) as being anticipated by Cookson (Office Action, paragraph 11). Applicants respectfully traverse the 35 U.S.C. §102(b) rejections of claims 1, 4, 5, 7-9, 18-21 and 23 as set forth below.

A. Claim 1

Independent claim 1 recites:

"A method of preventing use of an unauthorized copy of a software program comprising the steps of:
determining a media type of an optical medium containing the software program; and

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inhibiting execution of the software program stored on the optical medium if the optical media has media type that indicates that the optical media is copied."

Cookson does not disclose or suggest at least one of these features.

The Cookson reference discusses preventing effective copying of digital recordings (Cookson, abstract). A copy-state code accompanies each recording, one state of which represents that no copies at all are to be made of the recording (Cookson, abstract). Compatible players are designed to prevent play of any writable disk which includes a "no-copy" code (Cookson, abstract). It is the inconsistency between the code and the medium containing it that causes play of the medium to be inhibited (Cookson, abstract).

The Examiner alleges at paragraph 11 of the Office Action:

"Cookson et al. discloses a method and computer-readable optical medium containing instructions for preventing use of an unauthorized copy of a software program comprising the steps of:

- a. determining a media type of an optical medium containing the software program [column 5, lines 23-27];
- b. and inhibiting execution (*further play is aborted*) of the software program stored on the optical medium by preventing execution of the software program if the optical medium has media type that indicates that the optical media is copied [column 5, lines 44-49]."

Applicants disagree with the above allegations, and respectfully submit that Cookson fails to disclose at least the following feature of claim 1: "inhibiting execution of the software program stored on the optical medium if the optical media has media type that indicates that the optical media is copied." First, Cookson does not disclose inhibiting the execution of a software program. Cookson discusses the well-known art of inhibiting play of audio, video or data disks by checking the media type of the optical medium (Cookson, column 2, lines 13-40). In contrast, claim 1 requires inhibiting execution of a software program stored on an optical medium if the optical media has media type that indicates that the optical media is copied. Cookson does not disclose using the technology of checking the media type of an optical medium for inhibiting execution of the software program. A software program as recited in

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claim 1 is different from the audio visual data discussed in Cookson. Cookson does not disclose executing a software program, or inhibiting the execution of a software program. Furthermore, Cookson does not disclose how the Cookson implementation could be modified to arrive at the features recited in claim 1.

Second, Cookson does not disclose a *software program* stored on an optical medium. Cookson addresses the playing of *digital recordings* (Cookson, column 1, lines 6-7), and mentions that the Cookson invention is particularly useful in the context of digital video disk players (Cookson, column 2, lines 13-14). In contrast, claim 1 requires a software program stored on an optical medium. Applicants respectfully draw the Examiner's attention to MPEP Section 2106.01 which emphasizes the distinction between computer programs and other forms of data. Computer programs which impart functionality when employed as a computer component are considered functional descriptive material (MPEP Section 2106.01). In contrast, music and mere arrangements of data are considered non-functional descriptive material (MPEP Section 2106.01). An audio, video or data disk as discussed in Cookson is not synonymous with a software program stored on an optical medium as required by claim 1. Thus, Applicants respectfully submit that Cookson fails to disclose "inhibiting execution of the software program stored on the optical medium if the optical media has media type that indicates that the optical media is copied," as recited in claim 1.

In light of the above arguments, Applicants respectfully request reconsideration and allowance of claim 1.

B. Claims 4, 5 and 7-9

Claims 4, 5 and 7-9 depend from independent claim 1. Accordingly, Applicants believe claims 4, 5 and 7-9 are allowable for at least the reasons set forth above with respect to claim 1.

C. Claim 18

Independent claim 18 recites:

"A method of preventing execution of an unauthorized copy of a software program stored on an optical medium, comprising the steps of:

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determining a media type of the optical medium; and
executing the software program stored on the optical medium if the
optical medium has a media type that indicates that the optical medium is an
original version."

Applicants respectfully submit that Cookson does not disclose at least the following feature of claim 18: "executing the software program stored on the optical medium if the optical medium has a media type that indicates that the optical medium is an original version." As discussed above in connection with claim 1, Cookson fails to disclose executing a software program stored on an optical medium. For at least this reason, Cookson does not disclose the features of claim 18. Applicants respectfully request reconsideration and allowance of claim 18.

D. Claims 19 and 20

Claims 19 and 20 depend from independent claim 18. Accordingly, Applicants believe claims 19 and 20 are allowable for at least the reasons set forth above with respect to claim 18.

E. Claim 21

Independent claim 21 recites:

"A computer-readable optical medium containing instructions for preventing use of an unauthorized copy of a software program stored on the optical medium, the instructions comprising the steps of:

determining a media type of the optical medium containing the software program; and

inhibiting execution of the software program stored on the optical medium if the optical medium has media type that indicates that the optical medium is copied."

Applicants respectfully submit that Cookson does not disclose at least the following feature of claim 21: "inhibiting execution of the software program stored on the optical medium if the optical medium has media type that indicates that the optical medium is copied." As discussed above in connection with claim 1, Cookson fails to disclose inhibiting execution of a software program stored on an optical medium. For at least this reason, Cookson does not disclose the features of claim 21. Applicants respectfully request reconsideration and allowance of claim 21.

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F. Claim 23

Independent claim 23 recites:

"A computer-readable optical medium containing instructions for preventing execution of an unauthorized copy of a software program stored on the optical medium, the instructions comprising the steps of:
determining a media type of the optical medium; and
executing the software program stored on the optical medium if the optical medium has a media type that indicates that the optical medium is an original version."

Applicants respectfully submit that Cookson does not disclose at least the following feature of claim 23: "executing the software program stored on the optical medium if the optical medium has a media type that indicates that the optical medium is an original version." As discussed above in connection with claim 1, Cookson fails to disclose executing a software program stored on an optical medium. For at least this reason, Cookson does not disclose the features of claim 23. Applicants respectfully request reconsideration and allowance of claim 23.

VI. Claim Rejections under 35 U.S.C. §103(a)

Claims 2, 3, 6, 10-17, 22 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cookson (Office Action, paragraph 13). Applicants respectfully traverse the 35 U.S.C. §103(a) rejections of claims 2, 3, 6, 10-17, 22 and 24 as set forth below.

A. Claims 2 and 6

Cookson does not disclose or suggest the features of claims 2 and 6. As discussed previously in connection with claim 1, Cookson fails to disclose or suggest the features of claim 1 from which claims 2 and 6 depend. For at least this reason, Cookson fails to disclose or suggest the features of claims 2 and 6. Therefore, Cookson does not support a valid 35 U.S.C. §103(a) rejection of claims 2 and 6.

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B. Claim 3

Cookson does not disclose or suggest the features of claim 3. As discussed previously in connection with claim 1, Cookson fails to disclose or suggest the features of claim 1 from which claim 3 depends.

Furthermore, Applicants respectfully submit that Cookson fails to disclose that "the step of inhibiting the execution of the software program comprises determining a set of feature of the software program to execute," as recited in claim 3. Cookson discusses completely aborting further play with regard to unauthorized copies of audio-visual disks (Cookson, column 5). Cookson does not disclose determining a set of features to execute, as required by claim 1. In fact, Cookson does not contain any teaching on how such a set of features would be determined. Cookson lacks a facility for conducting this determination.

For at least these reasons, Cookson fails to disclose or suggest the features of claim 3. Therefore, Cookson does not support a valid 35 U.S.C. §103(a) rejection of claim 3.

C. Claim 10

Amended independent claim 10 recites:

"A method of authenticating an original optical medium comprising the steps of:
inserting the optical medium in a compact disk-read/write (CD-R/W)
drive of a computer; and
checking a media type of the optical medium."

Applicants respectfully submit that Cookson does not disclose at least the following feature of claim 10: "inserting the optical medium in a compact disk-read/write (CD-R/W) drive of a computer," and "checking a media type of the optical medium." Applicants respectfully request reconsideration and allowance of claim 10.

D. Claims 11-17

Claims 11-17 depend from independent claim 10. Accordingly, Applicants believe claims 11-17 are allowable for at least the reasons set forth above with respect to claim 10.

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E. Claim 22

Amended independent claim 22 recites:

“A computer-readable optical medium containing instructions for implementing the steps of:
detecting insertion of the optical medium in a compact disk-read/write (CD-R/W) drive of a computer; and
checking a media type of the optical medium.”

Applicants respectfully submit that Cookson does not disclose or suggest at least the following feature of claim 22: “detecting insertion of the optical medium in a compact disk-read/write (CD-R/W) drive of a computer,” and “checking a media type of the optical medium.” Applicants respectfully request reconsideration and allowance of claim 22.

F. Claim 24

Amended independent claim 24 recites:

“An electronic device comprising:
memory for storing computer program instructions,
a processor for executing the stored computer program instructions, and
a compact disk-read/write (CD-R/W) drive for receiving an optical medium containing a software program, the computer program instructions including instructions for determining the media type of the optical medium and inhibiting execution of the software program stored on the optical medium if the optical medium has media type that indicates that the optical medium is copied.”

Applicants respectfully submit that Cookson does not disclose or suggest at least the following feature of claim 24: “a compact disk-read/write (CD-R/W) drive for receiving an optical medium containing a software program, the computer program instructions including instructions for determining the media type of the optical medium and inhibiting execution of the software program stored on the optical medium if the optical medium has media type that indicates that the optical medium is copied.” As discussed above in connection with claim 1, Cookson fails to disclose or suggest a software program and *inhibiting execution of a software program stored on an optical medium*, and therefore claim 24 is patentable for at least this reason. Applicants respectfully request reconsideration and allowance of claim 24.

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CONCLUSION

In light of the above amendments and arguments, Applicants respectfully submit that all of the pending claims are in condition for allowance. Should the Examiner feel that a teleconference would expedite the prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080, under Order No. MWS-107. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account.

Dated: July 5, 2007

Respectfully submitted,

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